

LAKE COUNTY RULES OF FAMILY LAW

Rule 1. Scope and title

A. Scope. These rules shall apply in the Lake Circuit Court and the Superior Court of Lake County, Civil Division. [FN1]

B. Title. These rules may be known as the Lake County Rules of Family Law, and abbreviated as F.L.R.

Rule 2. Financial declaration form

A. Requirement. In all relevant family law matters, including dissolutions, separations, post-decree and support proceedings, and irrespective of which court, each party shall prepare and exchange, respectively, within 45 days of the initial filing of the action or within 30 days of the filing of any post-decree matters, a Financial Declaration Form (see Appendix A). These time limits may be extended or shortened by court order for good cause shown. In those cases where there is service, but no appearance by counsel, it is the responsibility of the moving party to serve the completed Form on the other party and to notify that party of the duty to prepare and serve one as well.

B. Exceptions. The Form need not be exchanged if:

- (1) the parties agree in writing within 30 days of the initial filing to waive exchange;
- (2) the parties have executed a written agreement which settles all financial issues;
- (3) the proceeding is merely at a provisional or emergency relief stage;
- (4) the proceeding is one in which the service is by publication and there is no response;
or
- (5) the proceeding is post-decree and concerns issues without financial implications. Provided, however, when the proceeding is post-decree and concerns an arrearage, the alleged delinquent party shall complete the entire Form, while the support recipient need complete merely that portion thereof which requires specification of the basis of the arrearage calculation (with appropriate supporting documentation).

C. Use at trial. The Form is intended primarily as mandatory discovery though, subject to appropriate objection, it shall be admissible at the request of any party. Therefore, particularly in view of the presumptive nature of the Support Guidelines, direct examination on Form data shall address only unusual factors which require explanation, or corrections, and shall not, particularly with respect to issues of support, be routinely permitted. For evidentiary purposes, the pages of the Form shall be deemed severable.

D. Supporting documents. For the purpose of providing a full and complete verification of assets, liabilities and values, each party shall attach to the Form all information reasonably required and reasonably available. This shall include recent bills, wage and tax records, and bank, pension and year-end mortgage statements. "Reasonably available" means that material which may be obtained by letter accompanied with an authorization, but does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate and pensions, or of personal property such as jewelry, antiques or special collections (stamps, coins or guns, for example), are not required. However, once an appraisal is obtained, it must be exchanged. Moreover, the court may direct that an appraisal be obtained, just as it may designate the appraiser.

E. Privacy--Sealing of forms. Whenever the interest of privacy so requires, the court may, upon motion, direct the admitted Forms sealed until further order. However, such requests shall not be made as a matter of course.

When ordered sealed, the Court Reporter shall place the Forms in a flat manner in an envelope of sufficient size, seal the envelope and affix a copy of the order. Forms may be withdrawn at the conclusion of the case on such terms as the court allows.

F. Financial declaration--Mandatory discovery. The exchange of Forms constitutes mandatory discovery. Thus, Indiana Rules of Procedure, Trial Rule 37 sanctions apply. Additionally, pursuant to Trial Rule 26(E)(2) and (3), the Form shall be supplemented if additional material becomes available. Further, any additional discovery, such as a motion to produce, interrogatories, or depositions of the parties, shall not commence until the Forms are exchanged nor, once exchanged, shall it seek information already obtained.

Rule 3. Child support guidelines

A. Worksheet required. In all proceedings involving child support, each party shall file with any settlement, or enter into evidence during any trial, Indiana Child Support Guidelines worksheets--one or more depending upon the facts. Further, the worksheet(s) shall, when reasonably possible, be delivered to the other party simultaneously with the Form, but, in any event, within 10 days of receiving the other party's Form. The worksheets shall be promptly supplemented if any changes occur prior to resolution.

B. Support settlement agreements. If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the court a written explanation, with supporting documents, justifying the deviation.

Rule 4. Visitation orders

A. Reasonable visitation. It is the express preference of the Lake Circuit and Superior Courts that visitation be defined simply as "reasonable visitation upon reasonable notice." The detailed orders suggested in Appendix B are designed for those situations when the parties are unable to resolve visitation without having specific guidelines. "Reasonable visitation" means that parties take into consideration the schedules and the economic and geographic circumstances of each other as well as the schedules and activities of the children. "Reasonable visitation" does not mean any particular pattern; rather, it is that which best fits the needs of that particular case at that particular time.

B. Visitation guidelines. The Lake Circuit and Superior Courts have prepared suggested forms of visitation as well as general rules applicable to virtually all visitation orders (see Appendix B). Consequently, if the parties cannot agree on visitation, one of these forms shall be adopted unless the court is convinced otherwise.

Rule 5. Preparation of orders

A. Exchange. It shall be the duty of the parties' attorneys to prepare decrees and other orders as directed by the court. The attorney so directed shall first submit them to all other attorneys of record, to enable them to challenge any provision thereof before submission to the court for entry.

B. Additions. If the preparing attorney believes the other is unreasonably withholding approval as to form, or if either believes the other is attempting to make additions not addressed by the court, either may submit a proposed form to the court, and shall attach thereto a written explanation of the dispute. The other shall have 7 days to respond before the court enters any order. The court may enter sanctions against a party who has unreasonably withheld approval or attempted to make additions not addressed by the court.

C. Signatures. The signature line for each counsel or pro se litigant shall indicate "Approval As To Form". Such signature indicates that the order correctly reflects the court's ruling. It does not necessarily signify that the signing party or attorney agrees with that ruling.

Rule 6. Sanctions

If a party or counsel fails to timely prepare, exchange or file a Form or child support worksheet, or to cooperate in providing information therefor in a timely manner, either is subject to the sanctions of Trial Rule 37.

Rule 7. Attorney fee requests

A. Affidavits. When attorney fees (except those sought provisionally) are requested from the opposing party, the requesting attorney shall submit an appropriate affidavit, which the court shall admit as an exhibit.

B. Written requirements. The affidavit shall indicate the:

- (1) requested fee and the basis thereof;
- (2) amount counsel has billed, contracted for or been promised; and
- (3) amount counsel has received from all sources.

A copy of the written fee contract, if any, shall be attached to the affidavit and be deemed a part thereof.

Opposing counsel may cross-examine the requesting attorney as to any of the submitted material.

Rule 8. Agreed matters--Submission

No agreed matter shall be submitted unless accompanied with a signed agreement, and other appropriate documents, such as a decree, a wage-withholding order, or a Qualified Domestic Relations Order. However, if the parties reach a settlement "on the courthouse steps", then the court will accept evidence of that settlement on the record, and enter the appropriate order upon preparation and filing by counsel within 21 days after submission, or such additional time as the court may allow.

A. Mutual restraining orders. Orders restraining only the non-filing spouse will not be issued as to matters covered by Trial Rule 65(E) at any time. Rather, only a joint preliminary injunction will be entered, if requested, consistent with that rule.

B. Orders where one party has vacated. If, at the time of filing, one spouse has already vacated the premises, a restraining order prohibiting re-entry and awarding temporary, pre-hearing, custody to the person having custody of any children may be entered, if requested by a verified pleading indicating those facts. The order may include any other provisions necessary and appropriate to maintain the status quo.

C. Eviction without notice. A restraining order without notice which would evict a spouse from the marital residence may be issued only upon the following bases:

- (1) there are alleged specific facts indicating more than a generalized fear of an adverse reaction;

(2) there is evidence of actual or threatened physical or emotional abuse sufficient to find a risk of imminent danger; and

(3) but for exceptional circumstances, the movant is physically available to testify.

In addition to the foregoing criteria, the court may consider any other relevant social or economic factors, including whether either party has a reasonably convenient alternative residence pending hearing on provisional orders.

APPENDIX A. FINANCIAL DECLARATION FORM

FINANCIAL DECLARATION FORM

STATE OF INDIANA: CIRCUIT AND SUPERIOR COURTS OF LAKE COUNTY

IN RE THE MARRIAGE OF:

CAUSE NO.

Petitioner

and

Respondent

FINANCIAL

DECLARATION

OF

Husband [FN*] _____

Wife [FN*] _____

Address _____

Address _____

Soc. Sec. No. _____

Soc. Sec. No.

Badge/Payroll No. _____

Badge/Payroll No. _____

Occupation _____

Occupation _____

Employer _____

Employer _____

Birth Date _____

Birth Date _____

Date _____ of _____ Marriage

Date _____ of _____ Physical Separation

Date _____ of _____ Filing

[FN*]In paternity or post-decree matters, these designations are more
appropriately "Father" (or "Putative Father") and "Mother".

Names and dates of birth of all children of this relationship, whether by birth or adoption:

NOTE: THIS DECLARATION IS CONSIDERED MANDATORY DISCOVERY AND MUST BE EXCHANGED BETWEEN THE PARTIES WITHIN THE TIME PRESCRIBED BY THE LAKE COUNTY RULES OF FAMILY LAW. PARTIES NOT REPRESENTED BY COUNSEL ARE REQUIRED TO COMPLY WITH THESE PRACTICES. FAILURE BY EITHER PARTY TO COMPLETE AND EXCHANGE THIS FORM AS REQUIRED WILL AUTHORIZE THE COURT TO IMPOSE THE SANCTIONS SET FORTH IN RULE 6 OF THE LAKE COUNTY RULES OF FAMILY LAW.

PART I. STATEMENT OF INCOME, EXPENSES AND DEBTS

Attach copies of your state and federal income tax returns for the last three taxable years and wage statements from your employer for the last eight weeks.

HUSBAND WIFE

- A. GROSS WEEKLY INCOME from: Salary and wages, _____
including commissions, bonuses, allowances
and overtime, payable _____ (pay
period)

Note: If paid monthly, determine weekly income
by dividing monthly income by 4.3

Pensions and Retirement Plans _____

Social Security _____

Disability, Unemployment Compensation, and _____

Supplemental Unemployment Benefits
Public Assistance (Welfare, AFDC payments, _____
etc.)
Food Stamps _____
Child support received for any child(ren) not _____
born of the parties to this marriage
Dividends and Interest _____
Rents received _____
All other sources (specify) _____

TOTAL GROSS WEEKLY INCOME \$ _____ \$ _____

B. ITEMIZED WEEKLY DEDUCTIONS

(from gross income):

State and Federal Income Taxes _____

Number of exemptions taken

Husband: _____ Wife: _____

Social Security _____

Medical Insurance

(list all persons covered): _____

Coverage:

Medical ()

Dental ()

Eye Care ()

Psychiatric ()

Union or other dues _____

Retirement or pension fund:

Mandatory ()

Optional () _____

Child support withheld from pay (not including _____
this case)

Garnishments

(itemize on separate sheet) _____

Credit Union loans _____

Savings:

Thrift Plans ()

Credit Union savings ()

Bonds ()

Other (specify) () _____

Other (specify): _____

TOTAL WEEKLY DEDUCTIONS \$_____ \$_____

C. WEEKLY DISPOSABLE INCOME

(A minus B: Subtract Total Weekly Deductions from Total Weekly Gross Income) \$_____ \$_____

D. IN ALL CASES INVOLVING CHILD SUPPORT: Prepare and attach an Indiana Child

Support Guidelines worksheet (with documentation verifying your income).

If, to complete, you need the other party's Form, exchange within ten (10) days of its receipt.

E. SELECTED MONTHLY LIVING EXPENSES (Specify which party is the custodial parent and list the name and relationship of each member of the household whose expenses are included.):

	HUSBAND	WIFE
Rent or mortgage payments (residence)	_____	_____
Real property taxes (residence), if not included in mortgage payment	_____	_____
Insurance (residence), if not included in mortgage payment	_____	_____
Utilities (including water, sewer, electricity, gas, heat and garbage)	_____	_____
Telephone	_____	_____
Child support not withheld from pay (not including this case)	_____	_____
Medical (not covered by insurance)	_____	_____
Dental (not covered by insurance)	_____	_____
Insurance (excluding that payroll-deducted but including life, health, accident, liability, disability and automobile)	_____	_____
School (including, as applicable, colleges, universities and trade schools)	_____	_____
Child care and pre-school	_____	_____
Transportation (other than automobile)	_____	_____
Automobile payments	_____	_____
Automobile insurance (not included in	_____	_____

automobile payments) _____
 Other (specify) _____
 TOTAL MONTHLY EXPENSES _____
 AVERAGE WEEKLY EXPENSES _____
 (Divide total monthly expenses by 4.3) _____
 Note: Indicate which of the above expenses are delinquent and the amount thereof.

F. DEBTS AND OBLIGATIONS (Include credit union) Attach additional sheets as needed:

CREDITOR'S NAME	DATE PAYABLE	BALANCE	MONTHLY PAYMENT

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL	_____	_____	

ATTACH A COPY OF THE MOST RECENT STATEMENT FOR EACH DEBT.
 Note: Indicate
 any special circumstances; that is, premarital debts; debts in arrears
 on the date of physical separation or date of filing; the number of
 payments in arrears and the amount thereof.

PART II. NET WORTH

List all property owned, whether individually or jointly. Indicate how the title is held:
 (H) Husband, (W) Wife, or (J) Jointly. WHERE SPACE IS INSUFFICIENT FOR
 COMPLETE INFORMATION OR LISTING, PLEASE ATTACH A SEPARATE
 SCHEDULE.

Ownership	Value	Balance(s) Owed
H/W/J		(Identify Creditors)

A. HOUSEHOLD FURNISHINGS _____
 (Value of furniture,
 appliances and
 equipment, as a whole;
 that is, you need not
 itemize)

B. AUTOMOBILES (Year and
 Make)

Indicate regular driver H/W/J	Ownership	Value (Identify Creditors)	Balance(s) Owed
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

C. SECURITIES
 (stocks, bonds, etc.)

Company	Ownership H/W/J	Value	No. of Shares
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

D. CASH AND DEPOSIT ACCOUNTS (including banks; savings and loan
 associations;

credit unions; thrift plans; mutual funds; certificates of deposit;
 savings and checking accounts; IRAs; and annuities):

Institution	Ownership H/W/J	Value	Account No.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

E. LIFE INSURANCE

Company/ Policy No.	Ownership H/W/J	Beneficiary Amount or Group	Face Whole Life; Amount	Type: Term; Loan	Cash Value/
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

F. RETIREMENT PLANS

Name of Plan	Ownership H/W/J	Vested Yes/No	Monthly Benefit at Earliest Retirement Date	Present Value (if known)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Attach documents from each plan verifying information. If not yet received, attach a copy of your written request to the Plan(s).

G. REAL ESTATE (attach a separate sheet with the following information for each additional property):

Address _____ Type _____ of
property _____
_____ Date _____ of
acquisition _____

Original cost \$ _____ Present value \$ _____
Cost of additions \$ _____ Basis for valuation _____
Total cost \$ _____ (attach appraisal if obtained)
Mortgage _____ balance \$ _____

Other _____ liens \$ _____

Equity \$ _____

Monthly payment \$ _____ To whom
paid _____
Taxes (if not included in payment) Insurance (if not included in
\$ _____ payment)
\$ _____

Special
Assessments_____

Individual contributions to the real estate (for example, inheritance;
pre-marital assets; or personal loans):

H. BUSINESS OR PROFESSIONAL INTERESTS

(indicate name, share, type of business, and value less indebtedness):

I. OTHER ASSETS (that is, specify coin, stamp or gun collections, or other
items of unusual value). Use additional sheets as needed:

J. ATTACH ALL AVAILABLE DOCUMENTATION TO VERIFY VALUES.

PART III. ARREARAGE COMPUTATION

If there is alleged the existence of a support or other arrearage, attach all records or other evidence regarding payment history and compute the arrearage as of the date of the filing of the petition or motion which raises that issue.

PART IV. VERIFICATION

I declare, under the penalty of perjury, that the foregoing, including any valuations and attachments, is true and correct, and that I have made a complete and absolute disclosure of all of my assets and liabilities. Furthermore, I understand that if, in the future, it is proven to this court that I have intentionally failed to disclose any asset or liability, I may lose the asset and may be required to pay the liability. Finally, I acknowledge that sanctions may be imposed against me, including reasonable attorney's fees and expenses incurred in the investigation, preparation and prosecution of any claim or action that proves my failure to disclose assets or liabilities.

Date: _____

PARTY'S SIGNATURE

PART V. ATTORNEY'S CERTIFICATION

I have reviewed with my client the foregoing information, including any valuations and attachments, and sign this certificate consistent with my obligation under Trial Rule 11.

Date: _____

ATTORNEY'S SIGNATURE

Name:

Indiana Attorney Number:

Address:

Phone:

APPENDIX B. LAKE COUNTY VISITATION GUIDELINES

PREAMBLE

The Lake County Visitation Guidelines are predicated on the concept that it is usually in the children's best interests that each parent have frequent, meaningful and continuing contact with them. The parents, in exercising visitation, should be flexible enough to adapt to the circumstances of each other and to the children. When the parents' maturity, personality and communication skills are adequate, the ideal situation is reasonable visitation upon reasonable notice, since that provides the greatest flexibility. The next best choice is a somewhat detailed visitation agreement made by the parties to fit their particular needs, while remaining mindful that circumstances may, at times, require modifying visitation, in which case it is the requesting party's duty to give as much notice as circumstances permit.

Visitation at reasonable frequencies and for reasonable durations upon giving notice to the custodial parent is the goal. However, when the facts establish that the goal cannot be met, the following guidelines represent the minimum visitation a parent should be allowed in order to maintain frequent, meaningful, and continuing contact with a child.

A strict and totally inflexible application of these guidelines to all cases or daily situations can easily lead to harsh and unreasonable results. These guidelines are not meant to foreclose the court from ordering, or the parties from agreeing to, such additional visitation as may be reasonable under the circumstances. Conversely, in some situations less than the guideline recommended visitation for short periods of time may be necessary or appropriate.

Parents should at all times avoid speaking negatively about each other and should firmly discourage such conduct by relatives or friends. Children should never be used by one parent to spy on the other. Each parent should encourage the children to respect the other. The basic rules of conduct and discipline established by the custodial parent should be the base-line standard for both parents, and consistently enforced by both, so that the children do not receive mixed signals.

Parents are encouraged to have their children maintain ties with both the maternal and paternal relatives. In most cases, the children will visit with the paternal relatives during times the children are with their father and with the maternal relatives when with their mother.

GENERAL RULES APPLICABLE TO ALL VISITATION

1. Parental Communication. Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. So far as possible, all communication

concerning the children shall be conducted between the parents in person, or telephonically at their residences (and not at their places of employment).

2. Grade Reports and Medical Information. The custodial parent shall provide the non-custodial parent with grade reports and notices from school as they are received and shall, consistent with Indiana law, not interfere with the right of the non-custodial parent to communicate concerning the children directly with the school and with the children's doctors and other professionals, outside the presence of the custodial parent. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the children. The custodial parent shall notify the non-custodial parent of all school or other events (like Church or Scouts) involving parental participation. If the children are taking medications, the custodial parent shall provide a sufficient amount and appropriate instructions.

3. Visitation Clothing. The custodial parent shall send an appropriate supply of the children's clothing with them, which shall be returned clean (when reasonably possible), with the children, by the non-custodial parent. The non-custodial parent shall advise, as far in advance as possible, of any special activities so that the appropriate clothing may be sent.

4. Withholding Support or Visitation. Neither visitation nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. The children have a right both to support and visitation, neither of which is dependent upon the other. In other words, no support does not mean no visitation, and no visitation does not mean no support. If there is a violation of either a visitation or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.

5. Adjustments to This Visitation Schedules. Although these guidelines create a rather specific schedule, the parties are expected to fairly modify visitation when family necessities, illnesses or commitments reasonably so require. The requesting party shall give as much notice as circumstances permit. [FN1]

6. Insurance Forms. A non-custodial parent who has medical insurance coverage on the children shall supply, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the custodial parent lives. A custodial parent who, except in an emergency, takes the children to a doctor, dentist or other provider not so approved or qualified shall pay any additional cost thus created. However, when there is a change in insurance which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parties to what is more important: allowing the child to remain with the original provider or the economic consequences of that decision. When there is an obligation to pay medical expenses, the parent responsible therefor shall be promptly furnished with the bill by the other. The parents shall cooperate in submitting bills to the appropriate

insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements directly with the health care provider and shall inform the other parent thereof.

7. Visitation Missed Due to Illness. When, for good cause, such as illness, a scheduled visitation cannot occur, a substituted visitation date shall be arranged, as quickly as possible, which is mutually agreeable. Each party shall, accordingly, timely advise the other when a particular visitation cannot be exercised.

8. Visitation a Shared Experience. Because it is intended that visitation be a shared experience, unless these Rules, the Visitation Guidelines, or circumstances, such as age, illness, or the particular event, suggest otherwise, all of the children shall participate in any particular visitation.

9. Privacy of Residence. A party, even if they have a property interest in the residence of the other, may not enter that residence, except by express invitation of the other parent. Accordingly, in effectuating visitation, the children shall be picked up at, and returned to, the front entrance of the appropriate residence.

10. Subsequent Relocation of Parents. In cases where this jurisdiction is the residence of both parents and children at the time of the initial order, and one of the parents later leaves the jurisdiction, thus changing the visitation pattern, the court may consider imposing most of the costs of transportation necessary to facilitate future visitation on the party that moved. However, the court may also consider other factors, such as the economic circumstances of the parents and the reasons prompting the move.

11. Mediation Preferred. Whenever it is economically feasible, mediation involving parties and their children should be used prior to initiating litigation of visitation or custody issues.

12. Basic Considerations. In considering any visitation issue, parents and the court must always keep in mind the following:

- a. The wishes of the child;
- b. The wishes of the child's parent or parents;
- c. The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interest;
- d. The child's adjustment to his home, school and community; and
- e. The mental and physical health of all individuals involved.

13. Transportation to Effectuate Visitation. Parents shall share the driving responsibilities to facilitate visitation. The non-custodial parent shall pick up the children at the start of visitation and the custodial parent shall pick up the children at the end of visitation. This will not automatically apply to situations where the mode of transportation is not an automotive vehicle, or where the parents live more than 150 miles apart, although the shared responsibility for transportation may be considered the norm.

14. Telephonic Communication. Both parents are to have reasonable phone access to their children at all times. Telephonic communication with the children by either parent to the residence where the children are located shall be conducted at reasonable hours, and intervals, and at the expense of the initiating household. The children may of course call either parent, at reasonable hours, frequencies and costs.

15. Notice of Canceled Visitation. Whenever possible, the non-custodial parent shall give a minimum of three days notice of their intent not to exercise all or part of a scheduled visitation. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason therefor, shall be given. The custodial parent shall give the same type of notice when good cause exists necessitating cancellation or modification of a scheduled visitation.

16. Pick Up and Return Times. Parents must be punctual in picking up and returning children from visitation. They are to arrive at the agreed time-not substantially earlier or later. Anything over 10 minutes is presumed substantial.

17. Additional Visitation-Flexibility. Visitation should be liberal and flexible. These guidelines are not meant to foreclose the parents from agreeing to, or the court from granting, such additional visitation as may be reasonable at any given time. Further, in addressing all visitation issues, both parents should exercise sensibility, flexibility and reasonableness.

18. Work Related Child Care. Each parent shall have the right of first refusal to provide child care or baby sitting when the other parent will be working. This does not apply when it would disrupt the children's normal sleep pattern. Whenever there is a need for work related child care, the working parent shall make a good faith effort to offer the other parent the opportunity to provide same. The parent who is offered the opportunity to provide the work related child care is under no obligation to accept, but if that parent accepts, that parent shall not charge for providing the child care. This provision is intended to provide each parent additional access to the child whenever possible.

This provision does not apply when child care can be provided by a qualified adult relative or spouse who is a regular member of the household of the parent who will be absent. A qualified individual is anyone who by age and ability can properly care for the children.

19. Modification Proceedings. The adoption of these amended guidelines may constitute a sufficient basis to support a modification of visitation.

20. Contempt Sanctions. Repeated, unjustified, violations of any of these general rules or of any of the provisions contained in these guidelines may subject the offender to contempt sanctions.

VISITATION WHEN THERE IS SOLE CUSTODY OR PRIMARY PHYSICAL CUSTODY AND PARENTS RESIDE NO MORE THAN 150 [FN2] MILES APART

A. Children Under 4 Years of Age.

1. General Philosophy Applying to This Section. The first few years of a child's life are recognized as being critical to that child's ultimate development. Psychological studies have documented that serious and often permanent damage to a child may occur as a result of hostile dissolution proceedings and from the child's separation from the primary care provider. Studies have also documented the importance of continuity in a young child's environment.

For these reasons it is critical that children of "tender years" be afforded ample opportunity to bond with both parents. Parents, therefore must be flexible in creating for each other opportunities to share in both the routine and special events of their child's early development.

Further, in drafting these guidelines, it is recognized that young children thrive when both parents take an active role in parenting and studies have documented the important role played by both parents in early childhood development and child rearing. It is also noted that in many instances both parents are employed and thus they will need to cooperate to balance their work schedules and their time with their young children.

In applying and modifying these guidelines to particular situations it is intended that these realities of life should be recognized by parents and the courts.

2. Regular Visitation for Children under 4 Years of Age

(a) Up to three non-consecutive "days" per week without interfering with the child's normal sleep pattern. The duration of each "day" to be determined by the non-custodial parent's work schedule and availability, but not to exceed 14 hours. The child's normal sleep pattern should not be changed in order to facilitate the start or end of a visitation period. Recognizing that everyone's work schedule varies, flexibility should be implemented as to the specific times of visitation. Similarly, in recognition of the need to integrate the child into the households of both parents, the effort should be made to

provide the child with balanced weekend access to both parents, provided that the work schedules of both parents will accommodate this.

(b) If the non-custodial parent can demonstrate that they have had substantial care responsibilities for the child on a weekly basis during the preceding one year time period, then visitation may also include overnights.

(c) If the non-custodial parent has not previously exercised substantial care responsibilities for the child, then visitation should not include overnights prior to the child's third birthday.

3. Extended Visitation Under 4. There shall be no extended visitation by the non-custodial parent with respect to children under the age of four except by mutual agreement of the parents.

4. Holidays and Other Special Days. Holidays, Children's Birthdays, Mother's Day and Father's Day shall be treated the same as for children 4 years of age and older except that the above guidelines concerning overnights or lack thereof shall apply. This means that at appropriate times the child shall be with the non-custodial parent on these special days.

B. CHILDREN 4 YEARS OF AGE AND OLDER.

1. Regular Visitation

(a) Weekends. Alternate weekends from Friday at 5PM to Sunday at 7PM (the starting and ending times may change to fit the parents' schedules).

(b) Weekdays. For children four years of age and older where the distance between parents' residences makes it reasonable, the non-custodial parent may have the children once per week, from the time they are out of school until one hour before their normal bed time. If the children are not in school, the time that visitation is to begin shall be based on the availability of the non- custodial parent. Depending on how much of this time is used, it is the non- custodial parent's obligation to feed the children and to see that any school assignments are completed. It is anticipated that, depending upon work schedules and location of residences, some individuals will only be able to use an hour or two of this time while others may be in a position to use five or six hours of time.

Where the distance from the non-custodial parent's residence makes it reasonable, this weekday visitation may be extended to an overnight stay. In such circumstances, the responsibility of feeding the children the next morning, getting the children to school or returning them to the residence of the custodial parent, if the children are not in school, shall fall on the non- custodial parent.

Where reasonable, if mid-week overnight visitation is used, the non-custodial parent shall return the children's clothing and belongings to the custodial parent at the same time that the children are brought to school.

2. Mother's Day-Father's Day. The alternate weekends will be shifted, exchanged or so arranged that the children are with their mother each Mother's Day weekend and with their father each Father's Day weekend. Conflicts between these special weekends and regular visitation shall be resolved pursuant to paragraph 8 below.

3. Extended Visitation (Children 4, 5 and 6 Years Old). Up to four non- consecutive weeks during the year, the choice of the number to be up to the non-custodial parent. A week shall consist of seven consecutive days. At least 60 days advance notice of the intent to use a week shall be given.

4. Extended Visitation (children Over 6). One-half of the summer vacation. At the option of the non-custodial parent, the time may be either consecutive or split into two segments. If the children attend summer school and it is impossible for the non-custodial parent to otherwise schedule this visitation that parent may elect to take that period when the children are in summer school (and be responsible for their attendance and transportation). The non- custodial parent shall give notice of the time they will use 60 days before school ends.

During any extended summer visitation of more than two consecutive weeks, the regular visitation schedule shall apply to the custodial parent, unless impracticable because of distance.

Similarly during the summer period when the children are with the custodial parent for more than two consecutive weeks, the non-custodial parents regular visitation continues, unless impracticable because of distance created by out of town vacations.

5. Winter Vacation. One-half the school winter vacation, a period which begins the evening the child is released from school and continues to the evening of the day before the child will return to school. If the parents cannot agree on the division of this period, the non-custodial parent shall have the first half in even-number years. In those years when Christmas does not fall in a parent's week, that parent shall have the children from Noon to 9PM on Christmas Day. For pre-school children, the same schedule shall apply, and the winter vacation period shall be determined by the vacation period of the public grade school in the custodial parent's school district.

6. Holidays. [FN3] Parties shall alternate the following holiday weekends: Easter, Memorial Day, the 4th of July, Labor Day and Thanksgiving. Thanksgiving will begin on Wednesday evening and end on Sunday evening; Memorial Day and Labor Day weekends will begin on Friday evening and end on Monday evening; while the 4th of July, when it does not fall on a weekend, shall include the weekend closest to the 4th,

except when the 4th falls on a Tuesday, Wednesday or Thursday then it shall be an overnight. Holiday weekends begin at 5PM and end at 7PM.

During that period of a child's life (approximately ages 2 to 12) when Halloween is a significant holiday due to costumes and trick or treating, this activity shall be alternated annually.

7. Children's Birthdays. Like the holidays, the children's birthdays shall be alternated annually between the parents. When a birthday falls on a weekend, it shall extend to the full weekend, and any resulting conflict with regular visitation shall be resolved pursuant to paragraph 8. When a birthday falls on a weekend, it shall be celebrated, depending on the availability of the non- custodial parent, from the end of school until one hour before the normal bed time.

8. Conflicts Between Regular and Holiday Weekends. When there is a conflict between a holiday weekend [FN4] and the regular weekend visitation, the holiday takes precedence. Thus, if the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating visitation schedule will resume following the holiday. If the non-custodial parent receives two consecutive weekends because of a holiday, regular alternating visitation will resume the following weekend with the custodial parent.

C. CHILDREN 14 YEARS OLD AND OLDER.

1. General Visitation. The Visitation Guidelines for children over 14 years of age are the starting point for establishing a shared parenting schedule, subject to modification consistent with the philosophy expressed in paragraph 2 of this section.

2. Special Considerations. The special needs of adolescents must be recognized in cases involving visitation with children age 14 years and older. Adolescence is a time in life when children are moving toward adulthood. They are learning to take greater responsibility for decision-making and management of their lives. It is a time when peer group activities and school activities are of particular importance. A balance is needed between the special needs of adolescent children 14 years and older and the needs of both the custodial and non-custodial parents. When arranging visitation, care should be taken to allow teenagers to participate in their usual activities. This may mean driving to and from activities, having a friend come along occasionally, and being flexible in visitation arrangements. Special needs of adolescents include such things as academic, extracurricular, and social activities. Such consideration particularly involves talking with the adolescents about their plans and negotiating solutions which are mutually respectful of the adults and the adolescents. There needs to be a balance reached so that adolescent wishes are considered, but do not necessarily dictate the result.

Whenever it is economically feasible, mediation involving the parents and their adolescent children should be used before resorting to court. In short, there should be a

good faith attempt by all parties to exercise sensibility, flexibility and reasonableness when dealing with shared parenting issues involving teenage children.

D. MULTIPLE CHILDREN OF DIFFERENT AGES.

When a family has several children of different ages, the presumption is that all the children should remain together at times of visitation. However, the guideline standards set for young children should not be ignored, and thus there will be situations where not all of the children participate in visitation at the same time. On the other hand, when there are younger and older children, it will generally be appropriate to accelerate, to some extent, the time when the younger children move into overnight or weekend visitation, in order to keep sibling relationships intact.

VISITATION WHEN THERE IS SOLE CUSTODY OR PRIMARY PHYSICAL CUSTODY AND PARENTS RESIDE MORE THAN 150 MILES APART

1. Children Under 4. Up to six one week segments annually, each separated by at least six weeks. Including pickup and return, no segment shall exceed 7 days.
2. Children 4, 5 & 6. Up to six non-consecutive, two-week segments annually, each separated by at least six weeks. Including the commencement and return days, no segment shall exceed 16 days.
3. Children Over 6. All but three weeks of the school summer vacation period and, all but three days of the school Winter vacation and the entire Spring Break, including where applicable both weekends. However, such visitation shall be arranged so that the custodial parent shall have Christmas Eve and Christmas Day, and Easter Sunday, in alternate years, if celebrated.
4. Telephone Calls. Telephone visitation initiated by a parent to the children, or by the children to a parent, shall be conducted at reasonable hours and frequencies, and at the expense of the household from where the call is initiated. The parent with whom the children are staying shall make sure the children are reasonably available for these phone calls.
5. Priority of Summer Visitation. Summer visitation with the non-custodial parent takes precedence over summer activities (such as Little League) when the visitation cannot be reasonably scheduled around such events. Even so, the conscientious non-custodial parent will often be able to enroll the children in a similar activity.
6. Notice. The non-custodial parent shall give the custodial parent at least 60 days notice of the time they intend to exercise extended visitation. Then, within 15 days, the

custodial parent shall give notice of any conflicts. The parties shall then attempt in good faith to resolve any conflicts.

7. Additional Visitation. Where distance and finances permit, additional visitation should be encouraged. When the non-custodial parent is in the area where the children reside, or the children in the area where the non-custodial parent resides, liberal visitation shall be allowed. Further, it is the obligation of the custodial parent to advise the non-custodial parent, as far in advance as possible, of the times the children will be in the area where the non-custodial parent resides, so that reasonable additional visitation can be arranged.

[FN1] The common belief that the law requires 24 or 48 hours notice is not correct and the maximum notice possible is to be expected.

[FN2] This 150 mile rule is not to be read literally. For instance if one parent lives in Whiting, Indiana and the other in Indianapolis, weekend visitation with shared driving would remain viable, whereas weekday visitation would probably be an unreasonable option.

[FN3] If religion makes the religious based holidays that are enumerated in these guidelines inappropriate, then similar appropriate holidays shall be substituted, or where appropriate no holiday visitation shall apply. However, these deviations shall not affect the Winter school break as defined in these guidelines, although they may affect the Christmas day visitation.

[FN4] Holiday Weekend as used here includes all weekends listed in paragraphs 2, 6 & 7.